

## **MEETING SUMMARY**

### **FIRE ISLAND NATIONAL SEASHORE OFF-ROAD DRIVING REGULATIONS NEGOTIATED RULEMAKING ADVISORY COMMITTEE SESSION V DAY ONE**

**August 16, 2003  
DOWLING COLLEGE, BROOKHAVEN CAMPUS**

**Attendees:** See attached attendance list of Principal Representatives, Alternates, Technical Advisors, and individuals who provided public comment.

#### **Review of Draft Agenda and Objectives**

Day One of the fifth session of the Fire Island Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations began at approximately 9:45 AM with a review of the proposed agenda and objectives for the meeting.

#### **Review of Draft Consensus Agreement (dated August 8, 2003)**

The Draft Consensus Agreement dated August 8, 2003 was projected onto a screen to guide the Committee discussions. The deliberations focused on creating new areas of agreement to build on the items of tentative consensus from the May 9 – 10 session. In this summary, the name of the section of the 8/8/03 Draft Consensus Agreement is *in italics* followed by issues, concerns and revisions suggested in the discussion. Due to time constraints, not all sections were discussed and items on which the Committee had previously reached Tentative Consensus are not covered in this summary. As in all of the Committee Meeting Summaries, there was no consensus reached except where indicated.

#### **Management of Driving and Other Issues**

(Pages 7 to 9 of Draft Consensus Agreement dated 8 August 2003)

##### ***A. Can I drive on Fire Island without a permit?***

- All vehicles, including those not requiring a permit, should be clearly marked to allow monitoring the number of trips and compliance with driving rules.
- “Official business” should be clearly defined and spot checking by law enforcement should take place to prevent abuses in this category.

***B. If I have a permit, where can I drive on Fire Island?***

- Routes should be listed as they appear in the current "bluebook" and any subsequent proposed modification of the routes on oceanside beaches or federal lands should be noticed in the Federal Register, with an opportunity for public comment.

***C. What happens if I break the driving rules?***

- More specific language re: permit revocation procedures should be added, for example: "after X number of violations, the permit will be revoked."
- For fleet permits, the Park should retain the authority to ban certain drivers rather than revoking the entire fleet permit.
- Due process provisions should be included here.
- Currently, there is no sharing of information about driving infractions between the Park and other law enforcement agencies. Proposed additional language: "The Park and other law enforcement agencies will work to share information and such procedures for so doing will be developed in cooperation with the Transportation Council."

***D. Can I drive if there is an emergency?***

- The Committee agreed that permitted vehicles may be driven in the event of an emergency involving the protection of life, but did not agree with regard to emergencies associated with property loss. Property loss-related emergencies should be better defined.

***F. Can I bike on Fire Island?***

- The regulations should refer to the definition of "bicycle" under federal law.
- Clarify whether, and, if so, how, local ordinances designating bicycle routes will be incorporated in the compendium to the federal rules
- Under federal regulations, one can generally only bike on federal lands where specifically designated.
- Bicycling is not allowed in the wilderness area.

***G. Can I drive an ATV or engine-powered cart on the oceanfront beach?***

- While the general answer is no, what about utilities, law enforcement other than the Park, and firefighters?
- The Park does not allow golf carts, towns do.
- The Park makes no distinction between ATV use and the use of other vehicles.
- Proposal: "Can drive carts on the Burma Road portion of federal land/across federal property on inland routes."

***H. If I have a valid driving permit, can I park on federal land within the Seashore?***

- With regard to handicapped parking at the Smith Point County Park Visitor Center, it was suggested that all vehicles in the Smith Point County Park handicapped parking area must have a valid, Park-approved, parking permit.

***J. Are there limitations to year-round or part-time permits issued per household?***

- It was suggested that a provision be included to allow adult children (living at home, and/or attending college) to be eligible to apply for a permit where there is already an existing permit in the household.

***K. How often is the permit issued?***

There was tentative consensus that permits will be issued once per year. It was further suggested that the process for issuing permits be included in this section; for example:

- Applications to be available by July 1 and submitted by August 1 to be issued by the first business day after Labor Day. OR
- Permit applications are mailed by the Superintendent by December 1 of each year to those year-round residents eligible to renew their permit. The deadline for receipt of completed applications is January 31 of the permit year. Applications received after January 31 are not considered as renewals of existing permits. Should the 145 limit be reached, late applications are placed at the end of the waiting list.
- It was suggested that utility companies might be issued permits every other year rather than annually.

***L. What will permits look like?***

- Permits should be placed on the front and back of vehicle, color-coded, with a two character identifier, and large enough to be visible from distance of two-hundred feet.

***E. How can the incorporated municipalities and the Park best coordinate the administration of the permitting system?***

**Discussion of FI Transportation Council**

(Page 2 of Draft Consensus Agreement dated August 8, 2003)

The Committee did not reach consensus on establishing the proposed council.

NPS distributed a revised outline of the considerations about the proposed Fire Island Transportation Council for Committee review. (*See handout: Fire Island Transportation Council Considerations Revised: August 6, 2003*).

There were differing views about whether such a Council was the appropriate entity to maintain the wait list and make recommendations on the issuance of permits. Some stated that the Park should continue to maintain the list with the residency requirements to be determined by the towns. Others stated that the same entity should both maintain the wait list and issue the permits. Another perspective was that the towns should issue the permits which would then be recognized by the Park.

Other suggestions for the role of a Transportation Council were as follows:

- Recommend broad-based or general improvements to the permit process;
- Coordinate the process once there are clear regulations in place and the permit process is common among all towns and villages;
- Help establish greater uniformity and address the gaps in the ways the driving permit system works;
- Advise on procedures for maintaining the wait list.

Regarding the decision-making and membership of the Transportation Council, the following suggestions were made:

- Decision-making should be by consensus rather than majority vote;
- Membership should include a non-resident visitor representative;
- Meetings should be open to the public or at least to representatives of the range of interests that participated in this negotiated rulemaking Committee.
- The Park noted that while it strongly supports establishing the Council, the language establishing the Council must be carefully drafted to comply with the Federal Advisory Committee Act (FACA). The Council would not be a FACA committee but could be set up to provide a helpful forum for coordination, communication and public input.

### **Discussion of Permit Categories and Driving Times**

(Pages 4 to 5 of Draft Consensus Agreement dated 8 August 2003)

#### ***I. I. How will categories of permits be defined and how many permits will be granted to each category?***

##### **Public Utility:**

Tentative Consensus was reached at May Committee Session on the definition of a Public Utility. The following additional statement was suggested:

- In addition, utilities will work with the Park and municipalities to seek ways to reduce driving to the greatest extent possible.

##### **Year-Round Resident:**

Tentative Consensus was reached at May Committee Session on the definition of a year-round resident, but not on the driving times. The following additional options for year-round resident driving times were discussed:

*Option IV*

Year-round residents may drive only if there is no ferry service (two trips per day) available w/in a mile of their homes unless necessary to deliver students to elementary or middle/high school (fall & spring semesters.) Except for delivering such students, may not drive between first Sat in March and the last Sunday in Oct.

*Option V*

Year-round residents may not drive between June 15 and Sept 15.

(With: From Memorial Day until June 15, no weekend driving as long as there is adequate ferry service) Or: Year-round residents may not drive from the Friday before Memorial Day to the Tuesday after Labor Day.

There was no consensus reached on the option for year-round residents driving times and it was noted that different rules may be necessary for different zones as needs and ferry availability differ from West to Center to East.

Part-time Resident:

Consensus was not reached as to the definition or driving times for part-time residents.

- What is the purpose of this category?
- Residency requirement should be tightened. There should be a minimum number of months that one must reside on the island in order to qualify.
- The current proposal of converting retired municipal employees' permits to part-time residents permits would cause a net increase in driving compared to the current rules for part-time resident permits which is confined to pre-1978 residential permit holders and brings the number to zero over time.

Essential Service:

Consensus was not reached as to the definition or driving times for essential services.

- This permit should be issued only to those who are authorized to carry the items described.
- This permit category is based on health & safety concerns.
- Inter-community freight delivery by Carters is not covered by these regulations and is allowed.
- Idea of limiting permits per company to 3 poses problems - puts more pressure on the vehicles.

Contracting and Business:

Tentative Consensus was reached at May Committee Session on the Contracting and Business definition but not on the driving times. It was noted that the maximum of 100 permits is reached

by shifting 20 permits for plumbers and electricians from Essential Services to Contracting and Business.

Special Permits:

Consensus was not reached as to the definition or driving times for special permits.

- The Superintendent may issue these Special Permits on a case by case basis.
- In response to the question of which category includes surveyors and appraisers, the Park stated that they may already be year-round resident permit holders or may fall within the Special Permit category for those activities.

***I.J. Are there seasons and times when the National Park Service will allow driving on the ocean front beach?***

- It was noted that these issues are covered in detail under definitions, driving times, and number of permits above in Section I.I. and perhaps this section I.J. could be deleted from the Consensus Agreement.

**Discussion of Sunset Clause, Size Limits, Inter-Community Driving**

(Page 6 of Draft Consensus Agreement dated 8 August 2003)

***I.K. Will there be a sunset clause for essential services and utilities?***

- The Park stated that the eastern communities have staging areas, which encourages garbage districts. A sunset clause would not eliminate these services, but all would come by water, which has been proven possible in the east end.
- This proposal does not address ice-over conditions
- It was suggested that this sunset clause not be implemented unless and until certain actions are taken/systems in place.
- The sunset clause would be difficult to implement because of permitting issues outside of this process, such as getting a permit to build a dock for a staging area.
- It was suggested that these are the sorts of issues that could be investigated by the FI Transportation Council.
- It was noted that restrictive weight limitations, grandfathering or sunseting would strike directly at the livelihoods of certain stakeholders and sacrifice the ability to efficiently and cost-effectively remove refuse and debris from the communities.
- It was proposed that the regulations allow vehicles up to 15,000 lbs, citing these vehicles as the most effective in safely providing service to the communities.

## ***II. B. What size of vehicles is allowed to drive within the Seashore?***

- It was suggested that trucks purchased before a specified date and weighing between 10,000 and 15,000 lbs. will be grandfathered.
- Vehicle turning radius is important in the communities. Also, some noted that some community sidewalks cannot accommodate weights in excess of 8600 lbs. without damage. Others noted that larger trucks tend to be wider than the Burma Road, at least in some places, and can tear up the walk and the ground beside it.
- Others noted that vehicles can be accommodated by many communities upwards of 12,500 lbs. (though not in all communities on all walks, which is understood) and, in fact, some utility service vehicles, emergency fire vehicles, and other special permit vehicles exceed this limit.
- If communities are more restrictive than the federal regulations and the beaches are closed, there will be an access problem.
- Single versus double wheel: It was noted that dual wheels do not increase the overall width of the vehicle, but spread out the footprint thereby increasing drivers' safety.
- In response to a statement about compliance with current weight limits it was suggested that permit applications could include vehicle manufacturer specifications and those should be attached to the permit.
- Reference was also made to the current "blue book" section which allows vehicles to have a rated gross weight not in excess of 10,000 lbs. unless the use of a larger vehicle will result in a reduction of overall motor vehicle travel. Some noted that the larger vehicles allow fewer trips which means less overall adverse impact to the beach and to visitor's enjoyment.

## ***Proposed New Section: What about inter- and intra-community driving within the Seashore?***

The following new section was suggested to address the inter- and intra-community driving concerns:

Driving on the island is intended for trips on and off the island and not for the personal convenience of permit holders for inter-community activity.

- Concern was expressed that this statement was over-broad and hurt contractors' ability to perform their jobs. In addition, it would work against the notion of creating staging areas for utilities.
- Under what conditions will community driving be allowed?
- Driving is a privilege and should not be done for convenience, lack of planning, etc.

## **Public Comment**

Marco Loncar of Chicago, IL stated that he discovered Fire Island eight years ago and believes that it has the best beaches in the world. He visits the island as a nature preserve and asked the Committee to consider "Do you need it or just want it?" when proposing driving regulations and to set guidelines to eliminate current driving abuses.

### **Next Steps**

The Mediators offered that they would revise the draft Consensus Agreement, in light of today's discussions and any additional suggested revisions submitted to them by 5 PM on Monday, August 18. A new draft will be forwarded to Committee Representatives on Wednesday August 20 in preparation for the final session of the Committee on Friday August 22.

### **Adjourn**

The meeting was adjourned at approximately 5:00 PM.

#### Documents Distributed During the Meeting\*

	<b><u>Title</u></b>	<b><u>Source</u></b>
1.	Draft Consensus Agreement (8 August 2003)	The Mediators
2.	Framework and Principles of Regulation Adopted by Consensus of the Committee	The Mediators
3.	Fire Island Transportation Council Considerations	NPS

\*All documents distributed during meetings of the Negotiated Rulemaking Advisory Committee are available from:

Superintendent  
National Park Service  
Fire Island National Seashore  
120 Laurel Street  
Patchogue, NY 11772  
631 289-4810



## MEETING ATTENDANCE

*Name* *Organization/Stakeholder Group*

### PRINCIPAL REPRESENTATIVES

Cannava, Ernest J.	Town of Islip
Clock, Forrest	On-Island Contractors
Esposito, Tom	Freight Companies
Farber, Laurie	Visitors
Gill, Anna Hannon	Village of Saltaire
Gillespie, Kevin	Fire Island Year-Round Residents
Goldhirsch, Suzy	West End Residents
Hafele, George	Ferry Companies
Kassner, Jeffrey	Town of Brookhaven
Lund, John	East End Residents
Miller, Andrew	Village of Ocean Beach
Murray, Robert	Suffolk County Water Authority
Paradiso, Edward	Fire Island Law Enforcement Council
Read, Bill	Suffolk County Police Dept.
Reich, Walter C.	Island-Wide Stakeholders
Stoddard, Gerry	Year Round/Seasonal Residents
Sullivan, Barry	National Park Service
Wikso, James	Off-Island Contractors

### ALTERNATE REPRESENTATIVES

Beqaj, Sedat	Town of Islip
Boss, Walter	On-Island Contractors
Seymour, James	Environmental Organizations
Thornberg, Beatrice	FI Year Round Residents
Valentine, Wayne	National Park Service
Vogel, Peter	Carters
Weinstein, Arthur	West End Residents
Zaccaro, John Jr.	Village of Saltaire
Zysman, Joe	Environmental Organizations

### MEMBER ORGANIZATIONS/STAKEHOLDER GROUPS NOT REPRESENTED

Fire Island Fire Chiefs Council  
Utility Companies (David Lucas from Verizon attended as an observer.)

### TECHNICAL ADVISORS

Papa, Steve	US Fish & Wildlife Service
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### NPS ADVISORS/STAFF

Lepore, Robin	DOI Office of Regional Solicitor
Spirtes, David	Superintendent, NPS FIIS

### INDIVIDUAL WHO PROVIDED PUBLIC COMMENT

Marko Luncar